IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.318 of 2007 (O&M)

Date of Decision: 1.02.2007

Messrs Grasim Industries Limited ...Appellant

Vs.

Municipal Council ...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Vinod S.Bhardwaj, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

CM No.880-C of 2007

Civil Misc. allowed and for the reasons stated in the application, delay in filing the appeal is condoned.

Present appeal has been filed against the judgment and decree passed by the courts below dismissing the suit filed by the appellant-plaintiff seeking a decree for permanent injunction restraining the defendant-committee from demolishing the Tin-Shed and Khokha situated on the suit land.

It was the case of the plaintiff that the defendant-committee

had no right, title or interest therein as the property belonged to the plaintiff company.

It was noticed by the courts below that the plaintiff failed to specify the boundaries of the suit land. However, the plaintiff claimed that the suit land consists of path which was said to have been provided by it for enabling its workers to reach the gate of the mill and it was subsequently that the defendant committee had laid sewerage line therein and had also metalled the same without any objection from the plaintiff. It was however, claimed by the plaintiff that the path was used by the Mill workers as well as by the public at large.

The learned courts below on appreciation of evidence came to the conclusion that the plaintiff has failed to prove on record that it was owner in possession of the suit property and accordingly, on issue No.2 it was held that the plaintiff is not entitled to injunction prayed for.

The learned counsel for the appellant has challenged the judgment and decree passed by the learned courts below primarily on the ground that there was no dispute regarding the ownership of the property. This contention of the learned counsel for the appellant is totally misconceived as there is nothing on record to show that the property in dispute was under the ownership of the appellant as claimed. Rather the defendant respondent had denied the claim of the appellant regarding the ownership of the property in dispute. Learned counsel for the appellant conceded that the path which was subsequently metalled was being used by the workers of the mill as well as by the general public and therefore, it fell within the definition of words “public street/road” as defined under the Municipal Act, 1973.

Other contention of the learned counsel for the appellant that the cycle stand/Tin Shed and khokhas were in existence for more than 30 years cannot be accepted as admittedly there is no evidence in this regard.

Thus, no question of law much less substantial question of law arises in this appeal so as to enable this Court to interfere with the concurrent findings recorded by the courts below.

Dismissed.

(Vinod K.Sharma)
Judge

1.02.2007
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